

### Remarks

Claims 1-20 and 41-60 remain pending. Claims 1-60 stand rejected. Claims 21-40 have been cancelled. Claim 41 has been amended. The Applicant respectfully traverses the rejection and requests allowance of claims 1-20 and 41-60 in light of the following remarks.

#### Claim Rejections Under 35 U.S.C. § 101

Claims 21-40 were rejected under 35 U.S.C. § 101 as being non-statutory. (See pages 2 and 3 of the Office Action.) Claims 21-40 have been cancelled.

#### Claim Rejections Under 35 U.S.C. § 103

Claims 1-60 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,104,727 (Moura) in view of U.S. Patent No. 5,644,573 (Bingham). (See pages 3-9 of the Office Action.) Claims 21-40 have been cancelled. Claim 41 has been amended for clarification purposes. No new matter has been added to claim 41.

#### *Claims 1, 21, and 41:*

Independent method claim 1 is reproduced below, with emphasis supplied:

1. A method of operating a probe device in a broadband wireless system, the method comprising:
  - receiving a message;
  - processing the message to determine *channel information describing actual use of each of a plurality of channels in the broadband wireless system by each of a plurality of users, wherein the channel information describing actual use includes a per-user breakdown of a time spent in each channel*;
  - storing the channel information in a memory in the probe device; and
  - transferring the channel information from the memory to a user system.

Independent claim 21 has been cancelled. Independent probe device claim 41 incorporates similar provisions to claim 1.

The Office Action states "As per claim 1, Moura teaches ... processing the message to determine channel information describing use of each of a plurality of channels in the broadband wireless system by each of a plurality of users, wherein the channel information describing actual use includes a per-user breakdown of a time spent in each channel..." The Office Action

goes on to quote directly from Moura, column 14, line 58, through column 15, line 16. The Applicant respectfully traverses this interpretation of the prior art and the application of this prior art to the present claims. Moura describes a method of controlling access to communication channel bandwidth resources through the use of credit control packets. These credit control packets are configured to allow a link to pass a given quantity of data, but no more than that amount. This is not equivalent to processing a message to determine channel information describing use of each of a plurality of channels in a broadband wireless system by each of a plurality of users. Moura describes a process where a remote link adapter sets a field in a credit control packet to the number of packets which was actually sent, and this operation may be thought of as a measure of actual use on some level. However, this still is not equivalent to a per-user breakdown of time spent in each channel. Moura teaches a single upstream channel shared by a plurality of remote link adapters. This is not equivalent to a plurality of channels used by a plurality of users.

Further, Moura teaches limiting users to use of a remote link adapter for a limited amount of bandwidth as controlled by a credit control packet. This is not equivalent to determining channel information describing actual use by a plurality of users, including a per-user breakdown of a time spent in each channel.

Likewise, Bingham does not disclose, teach, or suggest processing a message to determine channel information describing use of each of a plurality of channels in the broadband wireless system by each of a plurality of users, wherein the channel information describing actual use includes a per-user breakdown of a time spent in each channel. Thus, the combination of Moura and Bingham fails to disclose, teach, or suggest all of the limitations present in claim 1, and so the combination fails to render claim 1 obvious.

Since independent claim 41 contains limitations similar to those of claim 1, the above discussion also applies equally to claim 41. For at least the reasons presented above, the Applicant contends that independent claims 1 and 41 are patentable over Moura in view of Bingham, and such indication is respectfully requested.

*Claims 2-20, 22-40, and 42-60:*

Claims 2-20 depend from independent claim 1 and claims 42-60 depend from independent claim 41, thus incorporating the features of their respective independent claims. Claims 22-40 have been cancelled. Thus, the Applicant asserts claims 2-20 and 42-60 are allowable for at least the same reasons as claims 1 and 41, and such indication is respectfully requested.

### **Conclusion**

Based on the above remarks, the Applicant respectfully requests the reversal of the final rejection of claims 1-20 and 41-60. Additional reasons in support of patentability exist, some of which have been presented in previous communications, but such reasons are omitted here in the interests of clarity and brevity. The Applicant thus respectfully requests allowance of claims 1-20 and 41-60.

The Applicant believes no fees are due with respect to this filing. However, should the Office determine fees are necessary, the Office is hereby authorized to charge Deposit Account No. 21-0765.

Respectfully submitted,

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/Leslie Paul Gehman/

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